

LABOUR DEPARTMENT

The 11th December, 1978

No. 11(112)3Lab-78/10402.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s Frontier Rubber Factory 1-F/41 B.P. NIT, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 236 of 1976

between

SHRI JAGAN PARSHAD WORKMAN
AND THE MANAGEMENT OF M/S
FRONTIER RUBBER FACTORY, 1-F/41,
B.P. N.I.T., FARIDABAD.

Present:—

Shri Onkar Parshad, for the workman.

Shri A. J. S. Chadha, for the management.

AWARD

By order No. ID/FD/607-A-76/43349, dated 23rd November, 1976, the Governor of Haryana referred the following dispute between the management of M/s Frontier Rubber Factory, 1-F/41, B.P., N.I.T., Faridabad and its workman Shri Jagan Parshad, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Jagan Parshad was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The

parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 3rd June, 1977.

- (1) Whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?
- (2) Whether the services of the workman concerned were terminated automatically on account of absence?

Thereafter the management moved an application that the workman is gainfully employed and issue on this point may also be framed, hence the following issue was framed on 25th July, 1977.

- (3) Whether the workman concerned is gainfully employed with M/s Faridabad Rubber Soles (P) Ltd.? If so, since when, at what wage and to what effect?

The case was fixed for the evidence of the management. The management examined Shri R. C. Sharma, their Accountant, as M.W. 1 who stated that the marked the attendance of the workers and prepared wage bills. The workman was getting Rs. 180 P.M. He was giving increment of Rs. 20 with effect from 1st January, 1976. The workman met with an accident on 15th March, 1976. The management gave all medical facilities to the workman. The workman could not work for two months as he was in the bed but the management paid to him his wages for these months. Then the management gave him a post of a gate keeper at a onthly wage of Rs. 150 P.M. as the workman wanted a light job. The workman had agreed to this and he was paid at this rate for the month of July, 1976. He then produced a letter of another concern where the workman was employed. He also produced receipt Ex. M-3 in respect of medicine, which amount was paid by the management. He further stated that the workman absented himself from duty from 7th July, 1976 without any intimation to them and the workman was employed with M/s Faridabad Ruber Soles Private Limited.) The

management also examined Shri S. L. Chopra, Managing Director of Faridabad Rubber Soles Private Limited as M.W. 2 who brought the attendance register and salary register. He stated that the workman worked in their factory in January, 1977 and continued upto 10th February, 1977. Then the workman left his service. The workman again went to them and joined their service from 5th May, 1977 to 16th May, 1977 and the workman again left their service. The workman again joined their service on 1st July, 1977 upto 18th August, 1977 and the name of the father of the workman as recorded in their register is Ram Dulare. He identified the workman who was present in the court and stated that he was the person who served them and they paid them his wages for the period he worked with them. In cross-examination he stated that the appointment of the workman was oral and he was appointed as boiler attendant, and that they gave job every time to the workman considering his good work. The management closed their case.

Then the case was fixed for the evidence of the workman who stated that after he met with an accident his right thumb was lost and thereafter the management appointed him as a Chowkidar at Rs. 150 P.M. He moved the Labour Inspector regarding reduction in his wages. Then he was turned out of employment by the management on 24th July, 1977 without any fault of his. He was victimised. He admitted in cross-examination that the management had paid bills of the doctor. He stated that he had not asked the management for the post of the Chowkidar but he worked as a Chowkidar when the management gave him that post. He admitted that he got employment with M/s. Faridabad Rubber Soles, Private Limited but it was not permanent and whenever they used to call him he used to go.

Arguments have been heard. Now I give my findings issuewise.

ISSUE NO. 1

I believe the statement of the workman concerned that he met with an accident, has lost his thumb and then the

workman gave him a post of Chowkidar at Rs. 150 P.M. and he worked on that post for some times. By his conduct the workman has accepted the post of Chowkidar at a wage of Rs. 150 P.M. The management has placed on the file an extract from the attendance register in which they have marked the workman absent from 7th July, 1976 up to 31st July, 1976. Exhibit M-2 is a letter from Faridabad Rubber Soles, Private Limited to the management that the workman worked with them from 1st January, 1977 to 31st January, 1977, from 1st February, 1977 to 10th February, 1977 for a period of 33 days at a rate of Rs. 175 P.M. on purely temporary basis. The workman again worked with them for the period from 5th May, 1977 to 16th May, 1977, at the same rate of wage for 16 days and then again from 1st July, 1977 for 22 days at a salary of Rs. 225 P.M. on purely temporary basis. Exhibit M-3 is a receipt of Rs. 100 for the purchase of medicines. Exhibit W-1 is the demand notice dated 26th July, 1976. In it the workman had stated that his services were terminated on 24th July, 1976. Exhibit M-4 is a letter from the workman to the Labour Inspector to the effect that the management do pay him the expenses of his medical treatment. The workman had lost his thumb in accident, he had become unfit to work on the machine. The management, therefore, appointed him as a Chowkidar at a wage of Rs. 150 P.M. by reducing his wages by Rs. 30, as the workman was formally getting Rs. 180 P.M. as wage. The workman had a grievance against reduction in his wage. In these circumstances it is highly probable that the management terminated his services. The management had also a grievance that they spent money on medical treatment of the workman and even then the workman was demanding his former wage at a rate of Rs. 180 P.M. In these circumstances, the management terminated the services of the workman which act of this was not justified. I, therefore, decide issue No. 1 against the management.

ISSUE NO. 2

As a result of my decision on issue No. 1, I decide issue No. 2 that the services of the workman did not terminate automatically on account of absence.

ISSUE NO. 3

It is proved that the workman was gainfully employed with M/s. Faridabad Rubber Soles. He worked there for 33 days from 1st January, 1977 to 10th February, 1977 at the rate of Rs 175 P.M. and again for 16 days in May, 1977 at the same rate and for 22 days in July, 1977 at the rate of Rs. 225 P.M. Thus the workman received as wage through his gainful employment with the said concern a sum of Rs. 450 only. I decide this issue accordingly.

As a result of my decision on the issues, I answer the reference and give my award that the termination of services of the workman concerned was neither justified, nor in order. He is entitled to reinstatement with continuity of service and with full back wages minus a sum of Rs. 450 only, that he received on account of his gainful employment from M/s. Faridabad Rubber Soles, Private Limited.

Dated the 9th November, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 1126, dated the 10th November, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11 (112) 3 Lab-78/10934.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s. Bermaco Fabricators 19, Industrial Area, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 33 of 1977

between

SHRI JAGDISH THAKUR WORKMAN
AND THE MANAGEMENT OF M/s.
BERMACO FABRICATORS 19, INDUS-
TRIAL AREA, FARIDABAD.

Present:

Shri Onkar Parshad, for the workman.

Shri B. R. Grover, for the management.

AWARD

By order No. ID/11568, dated 17th March, 1978, the Governor of Haryana, referred the following dispute between the management of M/s. Bermaco Fabricators 19, Industrial Area, Faridabad and its workman Shri Jagdish Thakur, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Jagdish Thakur was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed their pleadings. From the pleadings of the parties the following issue was framed on 6th July, 1977.

- (1) Whether the workman abandoned his job of his own?
- (2) Whether the termination of services of the workman concerned was justified and in order? If not, to what relief he is entitled?

The case was fixed for the evidence of the management. The management examined their office Manager Shri Satish Kumar as MW 1 and closed their case.

Then the case was fixed for the evidence of the workman. The workman examined himself as WW 1 and closed his case.

Then the case was fixed for arguments. Arguments have been heard. Now I give my findings issuewise.

ISSUE NO. 1

M.W 1 stated that the workman was working as a Store Clerk. Some items were missing from the stores. Enquiries were made from the workman. The workman told that he knew nothing as to how the articles were missing. The workman thereafter absented himself from 31st November, 1976 to 13th December, 1976 but he met MW 1 once or twice during this period. MW1 enquired as to why he was not attending his duty. The workman told him that he had got some better job and did not like to work at Rs 150 p.m. He further stated that the workman has worked with Kumar Thekadar, Sector-7, during that period. He proved a report of Store Keeper. In cross examination he admitted that no charge sheet was given to the workman and that the workman was the only store clerk. He deposed from the attendance register that the workman was employed on 2nd February, 1976. He has shown that attendance register to this Tribunal. One or two pages are loose and the pages were not serially numbered. The workman stated that the matter had gone to the conciliation proceedings and the management did not reply his demand notice. The workman stated that he was not absent. He further stated that increments to other workmen were given but not to him and when he asked for increment the management terminated his services and asked him to quit the factory and that the workman could join in service. In cross examination he stated that he had not requested the Proprietor for granting him increment and that it was not the Proprietor who had told him to seek job elsewhere and stop coming to the factory. He further stated in cross examination that he did not talk to the Proprietor when the Manager had told him to quit the factory. Exhibit M-1 is a report from the Store

Keeper about the missing of some material. Exhibit W-2 is the U.P.C. and W 3 is the conciliation report. The conciliation report corroborate the plea of the workman. The evidence led by the management does not satisfy me that the workman absented himself. When there was a report that there some material were missing from the store and the enquiries were made from the workman, it is probable and plausible and reasonable also that the management terminated the services of the workman. The management should have charge sheeted the workman but they did not do that and took the plea that the workman absented himself, which plea has not been brought home to me. I, therefore, decide issue No. 1 against the management.

ISSUE NO. 2

Issue No. 1 has been proved against the management and the management has not pleaded and proved justification of termination of services of the workman. I, therefore, also decide issue No. 2 against the management.

As far as relief is concerned, the workman is entitled to reinstatement with continuity of services and with full back wages.

While answering the reference, I give my award that the termination of services of the workman concerned was neither justified nor in order. I set aside the same. The workman is entitled to reinstatement with continuity of services and with full back wages and I order accordingly.

Dated the 21st November, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1152. dated the 30th November, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh,

as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)3 Lab-78/10935.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workman and the management of M/s. Engineering Works N.I.T. Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 18 of 1978

between

SHRI JANAK RAJ WORKMAN AND
THE MANAGEMENT OF M/s. R. S.
ENGINEERING WORKS, N.I.T.,
FARIDABAD

Present:

Shri Roshan Lal Sharma, for the workman.

Shri Charan Singh, for the management.

AWARD

By order No. ID/2065, dated 19th January, 1978, the Governor of Haryana, referred the following dispute between the management of M/s. R. S. Engineering Works, N.I.T., Faridabad and its workman Shri Janak Raj, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Janak Raj was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference notices were issued to the parties. The parties appeared. The workman filed his claim statement. The management filed a settlement. Thereupon the representatives for the workman wanted to verify the factum of settlement from the workman. On the next date of hearing the workman admitted his signatures on the settlement. It was stated that the settlement was entered into by means of exercising fraud and misrepresentation on the workman. Then the following issue was framed on 3rd April, 1978.

Whether the management obtained Exhibit M-1 by fraud or misrepresentation?

The case was fixed for the evidence of the workman. The workman examined two witnesses named Sarvshri Ganga Ram Arya and the workman concerned as witness as W.W.1 and W.W. 2. W.W.1 stated that Labour Inspector was present at that time who asked the management to pay the wages of the workman. The management paid and the workman signed it considering it to be a receipt of payment of wages. W.W. 2 stated that he signed the settlement as a receipt of his wages and that he had not given any resignation. The Labour Inspector had asked the management to pay his wages and other dues but the management paid him his wages only. He admitted that at that time there were conciliation proceedings on his demand notice. In cross-examination he denied that he executed full and final settlement. The workman closed his case.

Then the case was fixed for the evidence of the management. The management examined Shri C. K. Salwan, General Secretary of residence Welfare Association, Faridabad as M.W. 1 who stated that the workman had asked him to accompany him as a witness as some disputes were going on in the Labour Department. The workman had told him that he had settled his dispute and he wanted his company so that the management might not get any other thing written by him. He further stated that he himself scribed the settlement and signed as a witness at mark B and the assistant of Shri Roshan Lal the authorised repre-

sentative for the workman in this case, was with the workman, as told to him by the workman and that he had also signed at mark A. The workman also signed and the management paid him a sum of Rs. 167.50. In cross-examination the workman could not draw any point in his favour from him. He denied a suggestion that he had deposed according to the wishes of the management. He again denied the suggestion that the settlement was entered into by assulting the workman.

The management also examined Shri Charan Singh as M.W.2. He corroborated the fact of settlement. The management closed their case. Then the case was fixed for arguments. Arguments were heard.

ISSUE No. 1

I now give my findings on the issues. The witness for the management have proved the settlement. The settlement is in Hindi. It is signed by the workman in English. The workman stated that he was up to 7th standard in education. In cross-examination the workman put a question to the witness for the management that the settlement was entered into under force whereas his plea was that it was entered into under influence of fraud and misrepresentation. In his own evidence the workman and his witness stated that they signed it considering

it as a receipt for payment of wages. The settlement reads that the workman withdrew his complaint and his case also from the Labour Department and that he had no connection with the management after the settlement. Therefore, I decide issue No. 1 against the workman.

While answering the reference, I give my award that the workman has settled his dispute,—vide settlement Exhibit M-1. Now there is no dispute between the parties.

Dated the 21st November, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1153, dated the 30th November, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 15th November, 1978

No. 10(105)-78-5Lab.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance Act, 1948 (Central Act 34 of 1948), and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Handloom Manufacturing units at Panipat from the operation of the said Act for a period of one year with effect from 24th March, 1978 to 23rd March, 1979.

The 13th December, 1978

No. 12(192)-78-4Lab.—In exercise of the powers conferred by sub-section (1) of section 15 of the Payment of Wages Act, 1936 (Central Act 4 of 1936), and in supersession of Haryana Government, Labour Department, notification No. 202-4Lab-77/2205, dated the 19th January, 1977, the Governor of Haryana hereby appoints all Commissioners for Workmen's Compensation appointed under the Workmen's Compensation Act, 1923,—vide Haryana Government, Labour Department, notification No. 12(192)-78-4Lab, dated the 9th June, 1978, to be authorities to hear and decide all claims arising out of delay in payment of wages or deductions from the wages of persons employed or paid in the local areas of their respective jurisdiction under the said Act.

No. 12(192)-4Lab-78.—In exercise of the powers conferred by sub-section (1) of section 20 of the Minimum Wages Act, 1948, Central Act 11 of 1948), and in supersession of Haryana Government notification No 202-4Lab-77/1505, dated the 19th January, 1977, the Governor of Haryana hereby appoints all the Commissioners for Workmen's Compensation appointed under the Workmen's Compensation Act, 1923,—vide Haryana Government, Labour Department, notification No. 12(192)-78-4Lab,

dated the 9th June, 1978, to be authorities to hear and decide for areas within their respective jurisdiction all claims arising out of payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of the wages at the overtime rate under section 14 of the said Act to employees employed or paid in that area.

The 29th December, 1978

No. 11(112)-3Lab-78/11367.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s M. L. C. International, Plot No. 312, Sector 24, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 144 of 1977

between

SHRI RAJBEER, WORKMAN AND THE MANAGEMENT OF M/S M. L. C. INTERNATIONAL,
PLOT No. 319, SECTOR 24, FARIDABAD

Present :—

Shri Darshan Singh, for the workman.

Shri K. P. Aggarwal, for the management.

AWARD

By order No. ID/FD/313-77/39432, dated 9th September, 1977, the Governor of Haryana referred the following dispute between the management of M/s M. L. C. International, Plot No. 319, Sector 24, Faridabad and its workman Shri Rajbeer, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri Rajbeer was justified and in order? If not, to what relief is he entitled?”

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 27th March, 1978:—

- (1) Whether the workman joined service of another management while he was under suspension under this management? If so, to what effect?
- (2) Whether the management struck the name of the workman concerned after he joined service of another management? If so, to what effect?
- (3) Whether the workman concerned abandoned his job of his own accord?
- (4) If issue No. 3 is not proved, whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management. The case was adjourned three-four times on the request of either of the parties. Lastly a settlement was arrived at. According to this settlement the management agreed to pay a sum of Rs. 1,000 only to the workman by 15th October, 1978 and thereafter the dispute shall cease. It was further agreed that the management shall pay to the workman earned wages, earned leave wages and bonus, if due in addition to suspension allowance for the period of suspension and the workman shall have no right to claim reinstatement or re-employment. In view of this settlement between the parties I, answer the reference and give my award that the management is liable to pay a sum of Rs 1,000 to the workman in addition to suspension allowance for the period of suspension and also earned wages, earned leave wages, bonus, if due, and the reupon the termination of services of the workman concerned shall be deemed justified and in order, and the workman shall not be entitled to reinstatement and re-employment.

Dated the 11th December, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1216, dated 14th December, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.